



# Department of Justice

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## **GERMAN COMPANY AND CHIEF EXECUTIVE OFFICER EACH AGREE TO PAY RECORD FINES FOR INTERNATIONAL CONSPIRACY**

### **FINES ARE LARGEST IN ANTITRUST HISTORY**

WASHINGTON, D.C. -- The world's largest producer of graphite and carbon products today agreed to pay a record \$135 million fine and plead guilty to participating in an international conspiracy to fix prices and allocate the volume of graphite electrodes in the U.S. and elsewhere, the Department of Justice announced.

In a one-count Information, filed today in U.S. District Court in Philadelphia, the Justice Department charged SGL Carbon Aktiengesellschaft (SGL AG) and its Chief Executive Officer, Robert J. Koehler, with violating the Sherman Act. In addition to the \$135 million fine against the corporation, Koehler has agreed to pay a \$10 million fine -- the largest antitrust fine against an individual. Both record fines are subject to court approval.

"SGL AG and its executive have agreed to pay the largest criminal fines in antitrust history," said Attorney General Janet Reno. "The fine against SGL AG surpasses the previous record fine of \$110 million imposed against another corporation -- also a participant in the graphite electrodes cartel."

According to the charges, SGL AG and Koehler participated in a conspiracy to suppress and eliminate competition in the graphite electrodes industry from at least as early as July 1992 and continuing until at least June 1997. As a result, steel makers paid noncompetitive and higher prices for graphite electrodes used in manufacturing steel products that are integral to a variety of business and consumer items.

This is the fourth case resulting from the Justice Department's ongoing criminal investigation into anticompetitive practices in the graphite electrode industry. Showa Denko Carbon Inc., a U.S. subsidiary of a Japanese firm, earlier pled guilty to similar charges and was sentenced to pay a fine of \$32.5 million. UCAR International Inc., a U.S. corporation with its principal place of business in Danbury, Connecticut, also pled guilty to similar charges and was sentenced to pay a fine of \$110 million. Tokai Carbon Co. Ltd., a Japanese corporation, has agreed to plead guilty and pay a fine of \$6 million. The Carbide/Graphite Group, Pittsburgh, Pennsylvania, another producer of graphite electrodes, previously announced that it has been accepted into the Antitrust Division's Corporate Leniency Program. Carbide/Graphite, Showa Denko, UCAR, Tokai Carbon and, now, SGL AG, have all agreed to cooperate in the Department's ongoing investigation.

Graphite electrodes are large columns used in electric arc furnaces in steel-making "mini-mills." This method of making steel is the fastest growing in the United States, and now accounts for 50 percent of the steel manufactured in this country. The electrodes generate the intense heat necessary to melt scrap and further refine steel. Nine electrodes, joined in columns of three, are used in the typical electric arc furnace. Because of the intensity of the melting process, electrodes are continuously consumed. Total sales of graphite electrodes in the U.S. are

estimated at \$500 million for 1996 and more than \$1.75 billion during the term of the charged conspiracy.

“We cannot allow international cartels to prey on U.S. businesses and consumers in our globalized economy,” said Joel I. Klein, Assistant Attorney General in charge of the Antitrust Division. “SGL AG and Robert Koehler have done the right thing in accepting responsibility for their illegal activity and agreeing to cooperate with the investigation of the remaining cartel members.

The criminal case charges that SGL AG, Koehler and their co-conspirators:

- participated in meetings and conversations in the Far East, Europe, and the United States in which the prices and volume of graphite electrodes sold in the United States and elsewhere were discussed;
- agreed during those meetings to increase and maintain prices of graphite electrodes;
- agreed to eliminate discounts from the fixed price of graphite electrodes;
- agreed to allocate among the conspirator companies the approximate volume of graphite electrodes to be sold;
- agreed to divide the world market among themselves and to designate on a region-by-region basis, including the United States, the conspirator who would fix the price that the others would follow;
- agreed to restrict the conspirator companies’ capacity for producing graphite electrodes;
- agreed to restrict non-conspirator companies’ access to certain graphite electrode manufacturing technology;
- discussed methods to conceal the agreement, including the use of code names by the corporate conspirators;
- exchanged sales and customer information to monitor and enforce the agreement; and
- issued price announcements and price quotations in accordance with the agreements reached.

“Our enforcement efforts targeting the international cartel in the graphite electrode industry have resulted in four prosecutions and yielded fines totaling almost \$300 million,” said Gary R. Spratling, the Antitrust Division’s Deputy Assistant Attorney General for criminal enforcement. “We will continue to go after any U.S. or foreign firms, including their executives,

who are involved in cartel activity against American businesses and consumers in graphite electrodes or any other industry.”

SGL AG is a German corporation headquartered in Wiesbaden, Germany. SGL AG has a United States’ subsidiary, SGL Carbon Corp., located in Charlotte, North Carolina, which manufactures graphite electrodes in the U.S.

SGL AG is charged with violating the Sherman Act, which carries a maximum fine of \$10 million for corporations. The fine may be increased to twice the gain to the conspirators in the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine of \$10 million for corporations.

The maximum penalty for an individual convicted of a violation of the Sherman Act is three years in prison and a fine equal to the greatest of \$350,000, twice the pecuniary gain derived from the crime, or twice the pecuniary loss suffered by the victims of the crime.

Today’s charge is the result of an investigation being conducted by the Antitrust Division’s Philadelphia Field Office and the Federal Bureau of Investigation in Philadelphia.

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